

NEBRASKA DEPARTMENT  
OF INSURANCE

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FEB 28 2003

FILED

|                          |   |                       |
|--------------------------|---|-----------------------|
| STATE OF NEBRASKA        | ) |                       |
| DEPARTMENT OF INSURANCE, | ) |                       |
|                          | ) | FINDINGS OF FACT,     |
| PETITIONER,              | ) | CONCLUSIONS OF LAW,   |
|                          | ) | RECOMMENDED ORDER AND |
| vs.                      | ) | ORDER                 |
|                          | ) |                       |
| VITO B. GRUPPUSO,        | ) | CAUSE NO.: A-1488     |
|                          | ) |                       |
| RESPONDENT.              | ) |                       |

This matter came on for hearing on the 25<sup>th</sup> day of February, 2003, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Michael Boyd. Respondent was not present and was not represented by counsel. The proceedings were tape recorded by Stacey Bellefeuille, a licensed Notary Public. The parties did not request the rules of evidence apply to the hearing. Petitioner's attorney withdrew the allegations in Paragraphs 9 and 10 of the Petition since Petitioner did not receive certified copies of the documents in time for the hearing. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed non-resident insurance producer whose current registered address with the Department is 240 Cedar Knolls Road, P.O. Box 388, Cedar Knolls, NJ 07927.

2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.

3. The Petition and Notice of Hearing were served on Respondent by certified mail, return receipt requested, to an address of 35 High Meadow Lane, Badking Ridge, NJ 07920 as evidenced by the return receipt card attached to Exhibit #1.

4. On or about May 28, 2002, Virginia Surety Company notified the Department of its termination of Respondent's agent appointment for cause due to Respondent's commingling premium trust account funds and using those funds to pay agency expenses.

5. On or about May 31, 2002, Barbara Ems, an investigator in the Department's Consumer Affairs Division, sent a letter to Respondent at his address of record, 240 Cedar Knolls Road, P.O. Box 338, Cedar Knolls, NJ 07927, requesting Respondent provide an explanation of the circumstances surrounding the appointment termination. Said letter was returned to the Department marked "Moved, Left No Address."

6. As of the date of the hearing, Respondent had not filed a change of address form with the Department.

7. Respondent entered into a Consent Order (E02-245) with the New Jersey Department of Banking and Insurance for the temporary suspension of his insurance producer license on September 12, 2002 pending the disposition of criminal charges. Respondent is a resident insurance producer in New Jersey.

8. Respondent did not notify this Department of the New Jersey administrative action, E02-245, within thirty (30) days.

9. Respondent was fined \$500.00 in a Conditional Order issued in Case No.: 02-0638-DIS by the Oklahoma Insurance Commissioner on July 2, 2002. When Respondent failed to pay the fine, Respondent's license was revoked by order filed November 13, 2002 in Case No.: 02-1101-DIS.

10. Respondent did not notify the Department of either of the Oklahoma actions within thirty (30) days.

### CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101 and §44-4047 et seq.

2. The Department has personal jurisdiction over Respondent.

3. Respondent violated Neb. Rev. Stat. §44-4054(8) by failing to report his change of address to the Department within thirty days.

4. Respondent violated Neb. Rev. Stat. §44-4065(1) by failing to report the administrative actions against him in the State of New Jersey, his state of residence, and the two actions of the State of Oklahoma within thirty (30) days.

5. Respondent violated Neb. Rev. Stat. §44-4059 (1)(i) when his producer license in New Jersey, his state of residence, was suspended and when his license in the State of Oklahoma was revoked.


### RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that:

1. The Respondent's insurance producer's license be revoked.

Dated this 27th day of February, 2003.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE


  
Christine M. Neighbors  
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of the State of Nebraska, Department of Insurance vs. Vito B. Gruppuso, Cause No.: A-1488.

Dated this 28th day of February, 2003.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
L. TIM WAGNER  
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon Respondent by mailing same to him at 35 High Meadow Lane, Basking Ridge, NJ 07920 by certified mail, return receipt requested, on this 28th day of February, 2003.

